



ENTERED  
09/27/2010

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE:	§	
	§	
SKYPORT GLOBAL	§	CASE NO. 08-36737-H4-11
COMMUNICATIONS, INC.,	§	(Chapter 11)
Debtor	§	
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JOANNE SCHERMERHORN, JOHN K.	§	
WAYMIRE, ET AL.,	§	
PLAINTIFFS	§	
	§	
VS.	§	ADVERSARY NO. 10-03150
	§	
CENTURYTEL, INC. (A/K/A CENTURYLINK),	§	
CLARENCE MARSHALL, ET AL,	§	
DEFENDANTS	§	
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SKYPORT GLOBAL	§	
COMMUNICATIONS, INC., ET. AL	§	ADVERSARY NO. 10-03225
PLANITIFFS	§	
	§	
VS.	§	
	§	
JOANNE SCHERMERHORN, ET. AL.	§	(CONSOLIDATED UNDER
DEFENDANTS	§	ADVERSARY NO. 10-03150)

**ORDER DIRECTING THE SHERMERHORN GROUP AND ITS COUNSEL TO  
APPEAR AND SHOW CAUSE WHY THEY SHOULD NOT BE HELD IN CONTEMPT**

Came on for consideration the Motion by Skyport Global Communications, Inc. that Joanne Schermerhorn, *et al* and their Counsel of Record Appear and Show Cause Why They Should Not Be Held in Contempt of the June 10, 2010 Preliminary Injunction (hereinafter the "Contempt Motion"). There is good cause to grant the initial relief set forth below. It is therefore

ORDERED that, absent further order of this Court or agreement of Skyport, any oral deposition of Skyport or its representatives, including the oral deposition currently scheduled for October 1, 2010, shall be conducted in this Court's jury room; it is further

ORDERED that on Oct. 14 2010 at 3:00 p.m. at the U.S. Bankruptcy Court, 515 Rusk, Houston, Texas 77002, Courtroom 600, 6<sup>th</sup> Floor, the Court shall conduct a hearing on the Contempt Motion (the "Contempt Hearing"); it is further

ORDERED that each of the below named persons shall (i) appear at the above-described Contempt Hearing; (ii) show why he/she/it should not be (a) held in contempt of the preliminary injunction entered by this Court on June 10, 2010 (a copy of which preliminary injunction is attached hereto and marked Exhibit A), (b) ordered to pay (and held jointly and severally liable for) the attorney fees and costs that Skyport incurred bringing and prosecuting the Contempt Motion, and (c) be ordered to pay (and be held jointly and severally liable for) additional punitive sanctions; (iii) by October 7, 2010 at 9:00 a.m. Central Standard Time, produce in writing to counsel for Skyport, Annie Catmull, 5847 San Felipe Street, Ste. 2200, Houston, Texas 77057, a signed and notarized report, reflecting each and every contact (since May 27, 2010) that he/she/it (including any person acting in concert) has had with any former or current vendor, employee, and/or customer of Skyport, which report shall include the date and time of each contact, the form of the contact, and the substance of the contact:

**3790168 Canada, Inc**

**BMT Grantor Trust**

**ARAN Asset Management SA**

**Joseph Baker**

**Diya Al-sarraj**

**Stanley Beraznik**

**Ben Ariano**

**David Currie**

**BLF Partners, Ltd.**

**Draco Capital, Inc.**

**Don Dui**

**ECAL Partners, Ltd.**

**Tracy Elstein**

**Eosphoros Asset Management, Inc.**

**Robert Foote**

**Wayne C. Fox**

**Gloster Holdings, LLC**

**Chet Gutowsky**

**Brian W Harle**

**Jason Charles Togut Trust**

**Llewellyn John**

**Rees A John**

**Yecheskel Kahan**

**Darshan Khurana**

**Barry Klein**

**Bella Kreiger**

**Joseph A. Lopez**

**Lynn Joyce Elstein Trust**

**Robert Mendel**

**Byron Messier**

**Movada, Ltd.;**

**Mateo Novelli**

**John E. Panneton**

**Edward Pascal**

**Martin Pollack**

**Puddy, Ltd.**

**Melvyn Reiser**

**Rig III Fund, Ltd.**

**Joanne Schermerhorn**

**Semper-Gestion SA**

**Sequoia Aggressive Growth Fund, Ltd.**

**Sequoia Diversified Growth Fund, Ltd.**

**Lawrence Solomon**

**Charles Stack**

**Michael Stein**

**Peter Taylor**

**David Togut**

**John Waymire**

**Whiz Kid Ventures**

**Sam Goldman**

**Mathew Weldon**

it is further

ORDERED that, in the interest of clarity, (i) appearances *in person* are required by this order, (ii) an appearance only through counsel shall not be considered compliance with this order, (iii) absent separate order of this Court, a telephonic appearance shall not be considered compliance with this order, (iv) persons who are entities shall appear through a corporate representative with the authority to bind the entity, and (v) the report required by the third decretal paragraph above must be signed by the actual party (i.e., not he/she/it's counsel), or in the case of entities, it must be signed by a corporate representative with general authority to bind the entity; and it is further

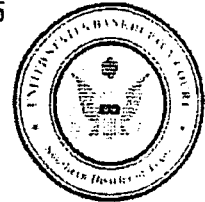
ORDERED that within two business days of entry of this order, Sam Goldman shall file with this Court a sworn certificate of service showing that he has served of a copy of this order (including the attached Exhibit A) to each of the parties listed above, which certificate of service sets forth the address, date, time, and method of each such service.

DATED: 9/27/2010

  
UNITED STATES BANKRUPTCY JUDGE

PREPARED BY

Annie Catmull  
State Bar No. 00794932  
5847 San Felipe, Ste 2200  
Houston, Texas 77057  
(713) 977-8686  
(713) 977-5395 (fax)



ENTERED  
06/10/2010

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:

SKYPORT GLOBAL  
COMMUNICATIONS, INC.,  
Debtor

CASE NO. 08-36737-H4-11  
(Chapter 11)

JOANNE SCHERMERHORN, JOHN K.  
WAYMIRE, ET AL.,  
PLAINTIFFS

VS.

CENTURYTEL, INC. (A/K/A CENTURLINK),  
CLARENCE MARSHALL, ET AL,  
DEFENDANTS

ADVERSARY NO. 10-03225

*with AD. No. 10-3150 consolidated*

*JS*

**ORDER GRANTING APPLICATION FOR PRELIMINARY INJUNCTION**

Defendants, SkyPort Global Communications, Inc. ("Skyport"), Robert Kubbernus, and Balaton Group, Inc., have applied to this Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure, as incorporated by Bankruptcy Rule 7065, for an order temporarily enjoining Plaintiffs from violating the Order Confirming Plan of Reorganization, As Modified entered on August 12, 2009, at Doc. #340 in Case No. 08-36737-H4-11. On May 27, 2010, the Court held an evidentiary hearing on this application where all parties appeared, and presented documentary evidence, testimonial evidence and oral argument. At the conclusion of the presentation after carefully considering all evidence and oral argument, the Court read its finding and conclusions into the record, and determined that:

1. Applicants established a substantial likelihood of success on the merits.
2. Applicants established that absent granting of the temporary injunction they would incur irreparable harm.



3. Applicants established that absent granting of the temporary injunction, the injury they would incur far outweighs the harm to the Plaintiffs.

4. Applicants established that granting of the temporary injunction serves the public interest.

Based on the foregoing as well as all of the findings of facts and conclusions of law read into the record, the Court is of the opinion that the temporary injunction should be granted. Therefore, it is

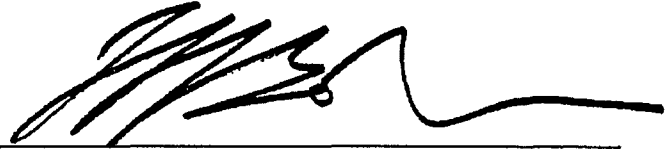
ORDERED that until further Order of this Court, temporary injunction is granted; it is further

ORDERED that Plaintiffs are temporarily enjoined from: pursuing any and all claims or causes of action, derivative or direct, against all of the Defendants, and; it is further

ORDERED that Plaintiffs may contact former and current vendors, employees, and customers of the Debtor *if and only if* a written request is made by Plaintiffs' counsel to counsel for SkyPort, and counsel for SkyPort either a) agrees to the proposed contact or b) does not respond within 1 business day. If counsel for SkyPort refuses in writing to agree to the proposed contact and the Plaintiffs wish to contact that person, Plaintiffs may contact this Court's case manager and, without motion, set an expedited hearing within two business days to adduce testimony and evidence that the contact should be permitted. The party who does not prevail at that hearing will be responsible for paying the opposing party's reasonable attorneys' fees and costs in relation to that hearing; and it is further

ORDERED that the Plaintiffs shall strictly comply with all terms and conditions of the Order Confirming Plan referred to above as well as the plan and modification attached thereto.

DATED: 6-10-2010

A handwritten signature in black ink, appearing to read 'JEFF BOHM', written over a horizontal line.

HONORABLE JEFF BOHM  
UNITED STATES BANKRUPTCY JUDGE

AGREED AS TO FORM

HOOVER SLOVACEK, LLP

*/s/ Edward L. Rothberg*

By: \_\_\_\_\_

Edward L. Rothberg  
State Bar No. 17313990  
5847 San Felipe, Ste 2200  
Houston, Texas 77057  
(713) 977-8686  
(713) 977-5395 (fax)

ATTORNEY FOR SKYPORT  
GLOBAL COMMUNICATIONS, ET. AL.

McFALL, BREITBEIL & SHULTS, P.C.

*Agree as to form only /s/*

By: \_\_\_\_\_

W. STEVE SMITH  
State Bar No. 18700000  
1331 Lamar Street, Suite 1250  
Houston, Texas 77010  
(713) 590-9300  
(713) 590-9399 (fax)

AND

SAMUEL GOLDMAN & ASSOC.

*Agree as to form only /s/*

By: \_\_\_\_\_

SAMUEL GOLDMAN  
100 Park Ave., 20<sup>th</sup> Fl.  
New York, NY 10017  
(212) 725-1400  
(212) 725-0805 (fax)

AND



THE FRYAR LAW FIRM

*Agree as to form only /s*

By: \_\_\_\_\_

F. ERIC FRYAR  
State Bar No. 07495770  
1001 Texas Ave., Suite 1400  
Houston, Texas 77002  
(281) 715-6396  
(281) 715-6397 (fax)

ATTORNEYS FOR JOANNE SCHERMERHORN, ET. AL.

McKool Smith, P.C.

*/s/ Hugh M. Ray, III*

By: \_\_\_\_\_

HUGH M. RAY, III  
State Bar No. 24004246  
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Houston, Texas 77002  
Telephone: (713) 485-7300  
Facsimile: (713) 485-7344  
ROBERT M. MANLEY  
State Bar No. 00787955  
300 Crescent Court, Ste. 1200  
Dallas, TX 75201  
Telephone: (214) 978-4000  
Facsimile: (214) 978-4044

ATTORNEYS FOR CENTURY TEL, ET. AL DEFENDANTS